

**IN THE HIGH COURT OF UTTARAKHAND**

**AT NAINITAL**

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI

AND

HON'BLE SRI JUSTICE RAKESH THAPLIYAL

**SPECIAL APPEAL NO. 144 OF 2023**

**12<sup>TH</sup> JUNE, 2023**

**BETWEEN:**

Uttarakhand Subordinate Service Selection Commission &  
another

.....Appellant.

And

Neeraj Joshi & others

....Respondents.

|                                 |   |                                                  |
|---------------------------------|---|--------------------------------------------------|
| Counsel for the Appellant       | : | Ms. Priyanka Agarwal, learned counsel.           |
| Counsel for the Respondent No.1 | : | Mr. D.S. Mehta, learned counsel.                 |
| Counsel for the State           | : | Mr. K.N. Joshi, learned Deputy Advocate General. |

**The Court made the following:**

**JUDGMENT:**(per Hon'ble The Chief Justice Sri Vipin Sanghi)

**Delay Condonation Application (IA No.02 of 2023)**

Learned counsels for the respondents fairly do not oppose the delay in preferring the present special appeal.

2. For the reasons stated in the delay condonation application, the delay condonation application is allowed, and the delay of 06 days in preferring the present special appeal is, hereby, condoned.

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3. The appellant- Uttarakhand Subordinate Service Selection Commission, and the Examination Controller of the Uttarakhand Subordinate Service Selection Commission, have

preferred the present special appeal to assail the order dated 17.04.2023, passed by the learned Single Judge in Writ Petition (S/S) No.564 of 2023.

4. By the impugned order, the learned Single Judge has permitted the respondent- writ petitioner to provisionally participate in the process of document verification, subject to final outcome of the writ petition.

5. It appears that the appellants were not permitting the respondent-writ petitioner to undergo the process of his document verification on the ground that he was involved in a scam relating to paper leak for the post of Sachivalaya Rakshak Recruitment Pariksha. Consequently, he approached this Court.

6. The appellants, it appears, produced a communication dated 20.02.2023 before the learned Single Judge which named 14 persons involved in the paper leak of the said examination, including that of the respondent.

7. The submission of learned counsel for the appellant is that since the respondent- writ petitioner has been found to be involved in the scam of paper leak of the said examination by an independent investigation agency, the respondent- writ petitioner should not have been permitted for his document verification.

8. We find that the learned Single Judge has permitted the appellants to file their counter-affidavits. The permission granted is only provisional, and there is nothing to suggest that the Court has found merit in the claim of the respondent- writ petitioner. The provisional permission granted to the respondent- writ petitioner, by the impugned order, only seeks to safeguard the right of the respondent- writ petitioner so that, in case, it is found that the allegation against him is meritless, he does not face a *fait accompli*.

9. We are, therefore, not inclined to interfere with the impugned order.

10. The appeal is accordingly dismissed.

11. We, however, make it clear that we have not examined the merits of the case of the parties. We also make it clear that the impugned order shall not create any equity in favour of the respondent- writ petitioner.

12. Pending application, if any, also stands disposed of.

**(VIPIN SANGHI, C.J.)**

**(RAKESH THAPLIYAL, J.)**

Dated: 12<sup>th</sup> June, 2023

NISHANT